IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3560 OF 2007

Suchita Ramchandra Thakur ... Petitioner.

V/s.

1. State of Maharashtra & Ors. ... Respondents.

WITH
WRIT PETITION NO. 3564 OF 2007

Shital Gopinath Thakur .. Petitioner.

V/s.

1. State of Maharashtra & Ors. .. Respondents.

WITH
WRIT PETITION NO. 3567 OF 2007

Vithoba Ramchandra Thakar .. Petitioner.

v/s.

1. State of Maharashtra & Ors. .. Respondents.

WITH
WRIT PETITION NO. 3581 OF 2007

Vipeen Mahadev Thakar .. Petitioner.

V/s.

1. State of Maharashtra & Ors. .. Respondents.

WITH
WRIT PETITION NO. 3589 OF 2007

Vijay Vishnu Thakur .. Petitioner.

V/s.

1. State of Maharashtra & Ors. .. Respondents.

Mr.R.K.Mendadkar & M.K.Mandlik for the Petitioners.

Mr.P.I.Khemani,AGP for for the Respondents.

CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.

DATED : 03rd MAY, 2007.

P.C. :- (Per R.M.SAVANT,J.)

. The above petitions take exception to the order passed by the Caste Scrutiny Committee, invalidating the caste claim of the petitioners as belonging to "Thakar" Scheduled Tribe.

2. In a case involving identical facts and also involving identical claim as belonging to Thakar and the petitioner / applicant also hailing from Sindhudurg district, we have by our order dated 25th April 2007 passed in Writ Petition No. 2491 of 2007, relegated the matter back to the concerned scrutiny committee for the reasons stated in the said order. Paragraphs 9, 10 and 11 of the said order are reproduced herein under for ready reference :

"9. We have gone through the said survey report as also the information given by the Petitioner as regards the traits, characteristics and customs. The Committee has come to a conclusion that the Petitioner has not satisfied the affinity test on the basis of the information given on behalf of the Petitioner. The Committee has merely observed that the information given by the Petitioner is not relating to Thakar tribe without elaborating as to why it is so. The Committee while not accepting the said information given on behalf of the Petitioner could have dealt with the said issue more elaborately, more so in view of its nonacceptance by it. The same has not been done by the Committee and the Committee has merely stated that the said information cannot be accepted and therefore, the Petitioner has not passed the affinity test. In our view when the affinity test had assumed crucial importance, the Committee should have gone in detail while dealing with the said issue.

10. Another aspect to be noted is that the Committee has merely observed that there is Thakar caste as well as Thakar tribe. Such surnames are also found in other communities. The Committee should have, therefore, been more specific about this issue also.

11. In that view of the matter, the impugned order of the Caste Scrutiny Committee would have to be set aside and the matter would have to be relegated back to the Committee for a decision afresh. The Committee on such remand would be well advised to go into the issue of affinity more elaborately as also the issue regarding Thakar caste and Thakar tribe. The Committee on such remand, would decide the issue within three months of the receipt of the order of this Court. Pending such consideration, the Petitioner’s services as Shikshan Sevak are protected.".

2. In that view of the matter, the above petitions would have to be allowed and the Rule would have to be accordingly made absolute in the terms indicated in the Writ Petition No. 2491 of 2007, which we have reproduced herein above.

3. Pending consideration of the claim of the petitioners in all the above petitions by the caste scrutiny committee, the petitioners if in employment, their services would be protected till decision of the Caste Scrutiny Committee.

(F.I.REBELLO,J.)

(R.M.SAVANT,J.)

.....